any part of the request within the specified time should be explained to the requester with notification that he or she may treat the delay as an initial denial with a right to appeal, or with a request that he agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made. Components are reminded that the requester still retains the right to treat this delay as a de facto denial with full administrative remedies.

(d) As an alternative to the taking of formal extensions of time as described in § 518.63 (a), (b), and (c), the negotiation by the cognizant FOIA coordinating office of informal extensions in time with requesters is encouraged where appropriate.

§ 518.64 Misdirected requests.

Misdirected requests shall be forwarded promptly to the DoD Component with the responsibility for the records requested. The period allowed for responding to the request misdirected by the requester shall not begin until the request is received by the DoD Component that manages the records requested.

§ 518.65 Records of non-U.S. Government source.

(a) When a request is received for a record that was obtained from a non-U.S. Government source, or for a record containing information clearly identified as having been provided by a non-U.S. Government source, the source of the record or information (also known as ''the submitter'' for matters pertaining to proprietary data under 5 U.S.C. 552 (reference (a) Exemption (b)(4) subpart C, exemptions, § 518.37, paragraph (d) and reference (dd), this part) will be notified promptly of that request and afforded reasonable time (e.g., 30 calendar days) to present any objections concerning the release, unless it is clear that there can be no valid basis for objection. This practice is required for those FOIA requests for data not deemed clearly exempt from disclosure under Exemption (b)(4). If, for example, the record or information was provided with actual or presumptive knowledge of the non-U.S. Government source and estalished that it would be made available to the public upon request, there is no obligation to notify the source. Any objections shall be evaluated. The final decision to disclose information claimed to be exempt under Exemption (b)(4) shall be made by an official equivalent in rank to the official who would make the decision to withhold that information under the FOIA. When a substantial issue has been raised, the DoD Component may seek additional information from the source of the information and afford the source and requester reasonable opportunities to present their arguments on the legal and substantive issues involved prior to making an agency determination. When the source advises it will seek a restraining order to take court action to prevent release of the record or information, the requester shall be notified, and action on the request normally shall not be taken until after the outcome of that court action is known. When the requester brings court action to compel disclosure, the submitter shall be promptly notified of this action.

(b) The coordination provisions of this paragraph also apply to any non-U.S. Government record in the possession and control of the Department of Defense from multi-national organizations, such as the North American Treaty Organization (NATO) and North American Aerospace Defense Command (NORAD), or foreign governments. Coordination with foreign governments under the provisions of this paragraph shall be made through Department of State.

§ 518.66 File of initial denials.

Copies of all initial denials shall be maintained by each DoD Component in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation. Records will be maintained in accordance with AR 25–400–2.

§ 518.67 Special mail services.

DoD Components are authorized to use registered mail, certified mail, certificates of mailing and return receipts. However, their use should be limited to instances where it appears